

NOTE: Please see attached Examiner's Memorandum dated November 29, 2000.

November 29, 2000

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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**REVISED REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT
APPROVAL**

SUBJECT: Department of Development and Environmental Services File No. **L98P0047**
Proposed Ordinance: **2000-0544**

COTTONWOOD COURT
Preliminary Plat Application

Location: 1350 Southeast 212th Street

Applicant: Frank and Marcia Horan, *represented by*
Mark Stiefel
Stiefel Engineering
22312 – 113th Avenue SE
Kent, WA 98031

King County: Department of Development and Environmental Services, Land Use
Division, Current Use Section, *represented by*
Fereshteh Dehkordi
900 Oakesdale Avenue SW
Renton, WA 98055-1219
Telephone: (206) 296-7173 Facsimile: (206) 296-6613

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions
Examiner's Decision:	Approve, subject to conditions

PRELIMINARY MATTERS:

Application or petition submitted:	November 23, 1998
Complete application:	December 21, 1998

EXAMINER PROCEEDINGS:

Hearing Opened: November 14, 2000
Hearing Closed: November 14, 2000

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Wetlands
- Wetland buffers
- Sensitive areas
- King County Road Standards
- 100-lot rule
- Sensitive areas tracts
- Drainage

SUMMARY:

Grants preliminary plat approval to a proposed subdivision of 2.27 acres into 7 single-family residential building lots, subject to conditions of final plat approval.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. **General Information:**

Owner/Applicant:	Frank and Marcia Horan 11350 SE 212 th Street Kent, WA 98031
Engineer:	Stiefel Engineering 22312 – 113 th Ave. SE Kent, WA 98031-2651
Location:	11350 Southeast 212 th Street
STR:	8-22-5
Zoning:	Residential, six du/acre (R-6 SO) Special Overlay
Acreage:	2.27
Number of Lots:	7

Density:	3 du/acre
Typical Lot Size:	Ranges from 14,324 square feet to 4,427 square feet
Proposed Use:	Residential single-family
Sewage Disposal:	Soos Creek Water & Sewer District
Water Supply:	Soos Creek Water & Sewer District
Fire District:	Kent East #37
School District:	Kent School District #415
Complete Application Date:	December 21, 1998

2. **Proposal.** Frank and Marcia Horan (the “Applicant”), represented by Stiefel Engineering propose to subdivide a 2.27 acre parcel into 7 single-family residential building lots. At 3 dwelling units per acre, the proposed density falls within the density range authorized by the R-6 (6 dwelling units per acre) zoning classification. A house presently existing on the property will be retained on proposed Lot No. 6, comprising 14,324 square feet. Ranging upward from 4,427 square feet, the other lots typically comprise 4,750 square feet.
3. **State Environmental Policy Act.** On September 8, 2000, the Department issued a Mitigated Threshold Determination of Non-significance (MDNS) for the proposed plat of Cottonwood Court. In that determination, the Department concluded that the proposed development would not cause probable significant adverse impacts (and therefore would not require Environmental Impact Statement preparation) *provided* that a split-rail or similar fence be constructed along the edge of the sensitive area tract. This requirement is intended to separate residential use/activity from the protected area. Neither the Applicant nor any agency, tribe, person or other entity appealed that determination. The environmental review record is incorporated in this public review record.
4. **Department Report *errata*.** The Department of Development and Environmental Services (DDES) Preliminary Report to the Hearing Examiner is entered in the hearing record as Exhibit No. 2. Presenting the report in public hearing, the Department made the following corrections:
 - a. **Hydrography.** The first sentence of Section F.3 on page 3 of the Department’s report, regarding hydrography, should read as follows: The site lies within the Soos Creek *subbasin of the Black River* drainage basin.
 - b. **Subdivision access.** Section I.2, regarding subdivision access, erroneously suggests that Southeast 212th Street connects to 108th Avenue Southeast (SR 515) approximately 300 feet west of the site. In fact, Southeast 212th Street connects to 108th Avenue Southeast approximately *1,750 feet west from the site*.
 - c. **Stubbed road.** In Section N on page 6 of the Department’s report, the staff analysis discusses a “road stub to the west.” In fact, that should read *road stub to the east*. Twice in that discussion the stubbed road is referred to as being located to the west. Both references should read “*east*.”
5. **Department Recommendation.** The Department recommends granting preliminary approval to the proposed plat of Cottonwood Court, subject to the 17 conditions of final plat approval set

forth on pages 6 through 10 of its preliminary report (Exhibit No. 2) *and subject further*, to the following amendments to those conditions:

- a. **Utilities.** In order to reduce confusion, the Department agrees to revising Recommended Condition No. 9 to read as follows: *All utilities located within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.*
 - b. **Planter island landscaping.** In order to allow design flexibility regarding the temporariness or permanence of proposed turn-around bulbs, the Department agrees to the following planter island landscaping new Recommended Condition No. 18 language: *The planter island, if any, within any required cul-de-sac turn-around bulb shall be maintained by the abutting lot owners or homeowner's association. This requirement shall be stated on the face of the final plat.*
6. **Applicant's Response.** The Applicant accepts the Department's recommendation, *except* for the following:
- a. **Second access street stub.** Recommended Condition No. 7.a requires the Applicant to provide "a stub to the east property line, with temporary turn-around" in order to facilitate future road connections. This requirement is based upon the Department's desire to achieve long-term compliance with KCRS 2.20, popularly known as the "100-lot rule," in which the KCRS requires a second access when more than 100 homes are affected. See Finding No. 7, below.
 - b. **Restrictions for sensitive areas tracts.** Recommended Condition No. 13 requires County approval of cutting and pruning within a sensitive areas tract. A portion of the (averaged) wetland buffer area on the subject property is presently grassy. The Applicant desires to keep it that way and therefore requests that the cutting and pruning prohibition be eliminated. See Finding No. 8, below.
 - c. **Suitable recreation area.** Recommended Condition No. 14 requires "suitable recreation space" consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190. The Applicant proposes an area which the Department finds unsuitable. The Department recommends that the Applicant provide an underground drainage retention/detention vault which could also function as a "sport court" to resolve the dilemma. The Applicant indicates that this option is cost prohibitive. See Finding No. 9, below.
7. **Second Access Street Stub/100-Lot Rule.** The record contains some difference of interpretation regarding a variance decision issued by the County Road Engineer regarding KCRS 2.20 which requires more than a single access to a plat when more than 100 lots are served.¹ The Department argues that the plat proposal contained a southerly extending tract/easement intended to accommodate a future connection that conceivably one day would provide secondary access

¹ Although Cottonwood Court proposes only 7 lots (6 additional lots), its only access street—Southeast 212th Street—already serves more than 100 lots.

relief. The Applicant contends that the southerly extension was not contained in the design at the time Applicant sought variance from KCRS 2.20. This difference of opinion is relevant because the County Road Engineer's variance decision states, among other things, "there is evidence that development in the near future will probably create the additional access for better circulation." The following additional findings are relevant:

- a. The (approximate) southern third of the subject property contains wetland and designated wetland buffer which preclude southerly extension of a stub street.
 - b. The easterly-extending stub recommended by the Department would lead to four already developed properties ranging in size from 0.27 acres to 0.95 acres. These properties, classified R-6, have redevelopment potential but are configured in a manner which would discourage a well coordinated, mutually shared access route. The subdivisions of Benson Hills Division Nos. I and II, East Benson Hills and Wood Hall would lie to the west and southwest of the subject property. It is those subdivisions which have strained the 100-lot limit now faced by Cottonwood Court. Immediately south from those subdivisions a new approved subdivision, Copper Ridge, is approved and building out. Copper Ridge connects to the aforementioned subdivisions and extends a stub street eastward toward two additional subdivisions, West Creek Meadows and Corrina Glen. The Copper Ridge eastward-extending stub street falls short of West Creek Meadows (Southeast 216th Street) by only 260 feet. When Tax Lot No. 220, located between West Creek Meadows and Copper Ridge develops, the extension will be complete. Tax Lot No. 220 comprises approximately 1.46 acres and is therefore developable. Further, Tax Lot No. 220 is connected by ownership to a larger southerly abutting property, thereby increasing development potential.
 - c. Although the Examiner's jurisdiction does not include the review of KCRS variance decisions in formal subdivisions, the Department correctly observes that the Examiner has historically maintained and continues to maintain jurisdiction regarding neighborhood circulation issues. The language to which the Applicant objects is not contained in the KCRS variance decision, but rather, in the Department's recommendation.
8. **Sensitive Area Tract Restrictions.** As noted earlier in these findings, Recommended Condition No. 13 would impose a standard "boilerplate" restriction on the wetland buffer area that prohibits, among other things, cutting, pruning, covering by fill, removal or damage "without approval in writing from the King County Department of Development and Environmental Services or its successor agency..." The restrictions contained in this standard language, which is required to be shown on the final engineering plans and on the recorded plat drawing, is based upon the sensitive areas regulations contained in KCC 21A.24. The Applicant objects to this restriction as it would apply to the eastern portion of the wetland buffer because that area is presently maintained as lawn—a circumstance which the Applicant seeks to continue. The following findings are relevant:
- a. The disputed portion of the wetland buffer is necessary in substantial part due to "buffer averaging." In order to obtain KCRS-consistent access to the proposed lots, and in order obtain lots which are reasonably developable, buffer averaging is necessary.

KCC 21A.24 requires, for a Class 2 wetland, a 50-foot wide protective buffer area. The buffer area located between the wetland and the Applicant's proposed extension of Southeast 212th Street is substantially narrower—as narrow as 29 feet. Consequently, the Department, in its recommendation for preliminary approval, has agreed to allow a substantially wider area in the eastern portion of the property to be included as averaged buffer. It is this (presently grassy) area which is the subject of this dispute.

- b. The Department, basing its recommendation on KCC 21A.24 does not desire to retain the area of concern as a grassy lawn. In fact, Recommended Condition No. 12.C, would require in part:

Mitigation for buffer averaging shall consist of enhancement of the remaining wetland buffer within the site boundaries per KCDDDES mitigation guidelines.

Thus, the Department expects to see, through the planting of native species, a restoration of the natural character of the (averaged) buffer area in order that it may truly function as buffer, including the habitat function of wetland buffer areas, not merely as lawn.

- c. The Recommended Condition No. 13 language is standard language which applies to all subdivisions and short subdivisions containing wetlands and wetland buffer areas. The hearing record contains no evidence that distinguishes this case from other cases, other than the Applicant's desire to maintain the required wetland buffer area as lawn.
9. **Suitable Recreation Space.** The Department recommends requiring suitable recreation space consistent with KCC 21A.14.180 and KCC 21A.14.190. In response, the Applicant proposes a recreation open space tract which is L-shaped with a width of 11 feet along one extension of the L and approximately 8 feet along the other extension of the L (scaled from Exhibit No. 14). The Department disapproves of this awkwardly-shaped narrow proposed tract. The Department argues that it not only fails to meet the intentions of the code with respect to area, but is too narrow to provide a suitable tot lot.
- a. The Parks Department has recommended requiring actual open space rather than a fee-in-lieu of open space (an option provided by KCC 21A.14).
 - b. The Applicant also provides a “combined storm detention/water quality system with vertical walls and fence” immediately adjacent to the recreation open space tract along its north boundary. The Department suggests that covering this storm detention facility would allow a joint use opportunity for a sport court, which would satisfy the recreation space requirement. The Applicant rejects this suggestion as being prohibitively costly. Such sport courts do indeed appear in some King County approved plats, however those plats tend to be much larger than the proposed Cottonwood Court and therefore more capable of cost averaging such improvements among lots to be sold. Neither the Applicant nor the Department have suggested any other options.

- c. KCC 21A.14.185 states, in part:

If on-site recreation space is not provided, the Applicant shall pay a fee-in-lieu of actual recreation space. King County acceptance of this payment is discretionary and may be permitted if the proposed on-site recreation space does not meet the criteria of this chapter, or the recreation space provided within a County park in the vicinity will be of greater benefit to the prospective residents of the development.

In hearing, the Applicant and Department discussed the possibility of a “partial fee-in-lieu arrangement” if the Applicant could find a suitable area for a tot lot. A “children’s play area” is required by KCC 21A.14.190 “except when facilities are available to the public within one-quarter mile that are developed as parks or playgrounds and are accessible without crossing arterial streets.” The subject proposal fails to meet this standard for exception. However, the KCC 21A.14.190 play area can only be provided if there is sufficient KCC 21A.14.185 recreation area in which to put it.

10. **Drainage.** The Dale Howell property, Lot No. 3 of Benson Hills Division I, is located approximately 1,500 feet west from the Cottonwood Court property. This property at the intersection of Southeast 112th Street and 109th Avenue Southeast, experiences tremendous periodic flooding. This flooding is excellently documented in the photographs contained in this hearing record as Exhibit No. 15. These photographs illustrate a long-standing flooding problem which, Mr. Howell testifies, has not been wholly solved by recent culvert replacement by the King County Department of Transportation. According to Mr. Howell, a new 30” culvert still drains to an older 24” culvert.

As it turns out, the proposed development will affect the Southeast 112th/109th Southeast intersection flooding problem neither negatively nor positively. The proposed Cottonwood Court will drain northward, not westward. It will enter a drainage course that flows through existing drainage facilities and a wetland located north of the subject property, then further north toward Southeast 108th Street.

The Department’s engineering representative, Mark Bergam, indicates that he will bring the continued flooding problem to the attention of the appropriate personnel in the Water and Land Resources Division and Department of Transportation. He obtained a copy of Exhibit No. 15 to provide to the appropriate personnel.

11. **Department Report Adopted.** Except as noted above, the facts and analysis contained in the Land Use Services Division Preliminary Report dated November 14, 2000 are correct and are incorporated here by reference. A copy of the Land Use Services Division report will be attached to those copies of the examiner's report which are submitted to the King County Council.
12. **Conclusions Adopted as Findings.** Any portion of any of the following conclusions that may be construed as a finding is incorporated here by this reference.

CONCLUSIONS:

1. Considering the facts and analysis contained in Finding No. 7, above, the southerly secondary access route through Copper Ridge promises a far more viable solution to the 100-lot rule dilemma than would an easterly extension through Cottonwood Court. The necessary chronological coordination among four different property owners, combined with the distribution of varying lot sizes and shapes among those owners, makes a viable eastward-extending solution highly unlikely. Considering the small size of the subject property and the proportional burden such a condition would place on such a small subdivision (only 7 lots total), such an extension requirement may be regarded as unreasonably burdensome. The clincher, of course, is that the Copper Ridge public street extension southward and eastward looks far more promising—and, indeed, is almost complete. For these reasons, the conditions below do not require an extension of Southeast 212th Street to the east boundary of the Cottonwood Court property as recommended by the Department.
2. When the grassy lawn in the southeast portion of the Cottonwood Court property became (averaged) buffer area in the Applicant's proposed plat design, its days as a grassy lawn became numbered and diminishing. The Department's recommendation to require enhancement of the area as a natural vegetative area is correct and consistent with code. Further, the Department's recommendation to prohibit cutting or pruning within that area is also correct and consistent with code. The recommended "sensitive area tract restrictions" should remain intact as stated in Condition No. 13.
3. The Department and the Applicant have amply demonstrated that there is no reasonably feasible on-site recreation space opportunity in this development. What could be sacrificed to achieve the recreation area? Wetland buffer area? Drainage capacity? Street dimensions? A building lot? In each case, the answer is no. The regulatory code-based design requirements cannot be sacrificed without jeopardizing public health and safety. Given the small size of this plat, the loss of even one building lot would be disproportionately burdensome on this development to meet an area-wide public recreation need. Thus, this case is ideally suited for the "fee-in-lieu" alternative—as indicated in the recommended conditions of final plat approval set forth below.
4. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
5. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
6. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.

DECISION:

The proposed plat of Cottonwood Court as described in Exhibit No. 7 of this hearing record, is GRANTED PRELIMINARY APPROVAL; SUBJECT to the following conditions of final plat approval:

1. The dedications of land or easements within and adjacent to the proposed plat, as recommended by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the applicant, are reasonable and necessary as a direct result of the development of this proposed plat.
2. Compliance with all platting provisions of Title 19 of the King County Code.
3. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
4. The plat shall comply with the base density and minimum density requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification of shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
6. The Applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

“All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be

connected to the permanent storm drain outlet as shown on the

approved construction drawings #_____ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."

- d. Core Requirement No. 3: Runoff Control. Control of storm water runoff shall be provided using the Level One flow control design criteria outlined in the 1998 King County Surface Water Design Manual (KCSWDM). The runoff control facilities shall be located in a separate tract and dedicated to King County unless portions of the drainage tract are used for required recreation space in accordance with KCC 21A.14.180.
 - e. As specified in Section 5.11 of the 1998 KCSWDM, roof drain storm water shall be infiltrated or dispersed within the lot area if the soil conditions are favorable. Infiltration of storm water for both lot areas and roadway improvements is recommended if determined to be feasible. A geotechnical report shall be provided to evaluate soil conditions, seasonal depth to groundwater, and other design requirements as outlined in the KCSWDM.
 - f. Core Requirement No. 4: Conveyance Systems. Demonstration of adequate easement widths and building setbacks for the off-site, downstream conveyance pipe shall be performed during the engineering review phase of this project.

The new pipe installed for downstream conveyance shall be evaluated during engineering review to accommodate developed, undetained flows above the design storms handled by the Level One flow control criteria.
 - g. Core Requirement No. 8: Water Quality. This site is subject to the Basic water quality requirements of the 1998 KCSWDM.
 - h. Special Requirement No. 2: Floodplain/Floodway Delineation. Because a portion of a Class 3 wetland is located along the south property line, a floodplain analysis shall be performed. The 100-year floodplain boundary shall be shown on the final engineering plans and recorded plat. The proper elevation of the overflow weir of the emergency inlet structure that controls the maximum water surface elevation of the wetland shall be determined during the engineering review phase. The criteria to determine the need for an off-site bypass shall also be determined during engineering review.
8. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
- a. The extension of Southeast 212th Street shall be improved as ~~an urban subcollector~~ a minor access street.

- b. Street trees (if proposed) shall be included in the design of all road improvements, and shall comply with Section 5.03 of the KCRS.
- 9. All utilities located within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
- 10. The Applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The Applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
- 11. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impacts fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
- 12. The planter island (if any) within any required cul-de-sac turn-around bulb shall be maintained by the abutting lot owners or homeowner's association. This shall be stated on the face of the final plat.
- 13. The proposed subdivision shall comply with the Sensitive Areas Code as outlined in KCC 21A.24. Permanent survey marking and signs as specified in KCC 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.

Preliminary plat review has identified the following specific requirements which apply to this project. All other applicable requirements from KCC 21A.24 shall also be addressed by the Applicant.

- a. Class 2 wetland shall have a minimum buffer of 50 feet, measured from the wetland edge. The wetland and its respective buffer shall be placed in a Sensitive Area Tract (SAT). The SAT shall be recorded on all documents of title of record for all affected lots.
- b. A 15-foot building setback line (BSBL) shall be established from the edge of the Sensitive Area Tract(s) for all affected lots.
- c. Buffer averaging may be proposed as shown on the revised plat map dated October 25, 2000, pursuant to KCC 21A.24.320,--provided the total amount of the buffer area is not

reduced and better resource protection is achieved,--subject to review and approval by a DDES Senior Ecologist. Mitigation for buffer averaging shall consist of enhancement of the remaining wetland buffer within the site boundaries per KCDDDES mitigation guidelines.

- d. Prior to commencing construction activities on the site, the Applicant shall mark Sensitive Areas Tract(s) in a highly visible manner, and these areas must remain so marked until all development proposal activities in the vicinity of the sensitive areas are completed.
 - e. Prior to final approval of construction activities on this site, the boundary between the Sensitive Areas Tract(s) and adjacent land shall be identified using permanent signs and a split-rail fence per the SEPA condition. Sign and fence specifications shall be shown on final engineering plans.
 - f. Prior to final recording and/or final engineering review, the plan set shall be reviewed and approved by a DDES Senior Ecologist.
14. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND
SENSITIVE AREAS AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

15. The Applicant shall pay a fee-in-lieu of required recreation area as provided by KCC 21A.14.185 as administered by the King County Parks Division.
16. A homeowner's association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or Sensitive Areas Tract(s).
17. The proposed plat shall comply with the Special Overlay District requirements regarding the clearing and grading limitations, seasonal clearing restrictions, and significant tree retention.
18. The following has been established by SEPA as necessary requirements to mitigate the adverse environmental impacts of this development. The Applicants shall demonstrate compliance with these items prior to final approval. Since the revised site plan shows the majority of the lots north of the road and away from the SAT, the SEPA condition is modified as follows:

Split-rail or similar fence approved by DDES shall be constructed along the edge of the Sensitive Areas Tract and the common boundaries of those lots abutting it. This mitigation is intended to reduce disturbance within the protective buffer and associated wetland.

ORDERED this 29th day of November, 2000.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 29th day of November, 2000, to the parties and interested persons shown on the attached list:

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) *on or before December 13, 2000*. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before December 20, 2000*. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a

written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE NOVEMBER 14, 2000 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L98P0047 – COTTONWOOD COURT:

R. S. Titus was the Hearing Examiner in this matter. Participating in the hearing and representing the Department were Fereshteh Dehkordi, Mark Bergam, Nick Gillen and Aileen McManus (KCDOT). Participating in the hearing and representing the Applicant was Mark Stiefel. Other participants in this hearing were Interested Persons Dale Howell, Homer Elling and Terry Defoor.

The following exhibits were offered and entered into the record:

- | | |
|----------------|--|
| Exhibit No. 1 | DDES File No. L98P0047 |
| Exhibit No. 2 | DDES Preliminary Report to the Hearing Examiner, dated November 14, 2000 |
| Exhibit No. 3 | Application, dated November 23, 1998 |
| Exhibit No. 4 | Environmental Checklist, dated October 14, 1998 |
| Exhibit No. 5 | Mitigated Declaration of Non-significance, dated September 8, 2000 |
| Exhibit No. 6 | Affidavit of Posting indicating January 6, 1999 as date of posting and January 6, 1999 as the date the affidavit was received by DDES. |
| Exhibit No. 7 | Revised Site Plan, received by DDES October 25, 2000 |
| Exhibit No. 8 | Assessors Maps NE 8-22-05 & NW 9-22-05 |
| Exhibit No. 9 | Wetland Assessment report by J. S. Jones & Associates, Inc., dated July 19, 1999 |
| Exhibit No. 10 | Technical Information Report by Mark Stiefel, dated November 1998 |
| Exhibit No. 11 | Road Variance approval letter issued by Ronald Paananen, dated March 16, 2000 |
| Exhibit No. 12 | Certificate of Transportation Concurrence issued by William Hoffman of KCDOT (4 pages include original & replacement). |
| Exhibit No. 13 | A letter dated June 12, 1999 petitioned by the area residents. |
| Exhibit No. 14 | Colored version of Exhibit No. 7, offered by Applicant |
| Exhibit No. 15 | Montage of photographs (copies) with related diagram, submitted by Mr. Howell |
| Exhibit No. 16 | Copy of Benson Ridge (aka Copper Ridge) site plan (reduced in size) with face page of Examiner's 1996 Report and Decision related to same. |

RST:sje
Attachments
Plats/L98P0047 RP2

NOTE: Please see attached Examiner's Memo dated November 29, 2000.

MEMO TO: Mark Stiefel, Stiefel Engineering
Fereshteh Dehkordi, Department of Development and Environmental Services

FROM: R. S. Titus, Deputy
King County Hearing Examiner

DATE: November 29, 2000

SUBJECT: REVISED Report and Decision, Cottonwood Court, DDES File No. L98P0047
Proposed Ordinance No. 2000-0544

In order to achieve internal consistency among all conditions of approval, Condition No. 8.a in the attached revised report and decision makes clear that the SE 212th Street proposed cul-de-sac need be developed only to KCRS minor access standard—and not to any higher standard. See page 8.

Because this revision is substantive and affects an issue considered in hearing debate, a new appeal date is set on page 13.

RST

sjc
Plats/L98P0047 MEM2

Jeffrey & Lillian Adams
21230 - 113th SE
Kent WA 98031

Marla Andrus
21217 - 109th Ave SE
Kent WA 98031

Dave Bennett
21307 - 116th Ave SE
Kent WA 98031

Shermanita Bighan
10806 SE 212th
Kent WA 98031

Pete & Lyn Cadondon
11038 SE 212th St
Kent WA 98031

Frank Cote
10817 SE 213th
Kent WA 98031

Current Resident
11116 SE 214th St
Kent WA 98031

Terry Defoor
24633 NE 133rd St
Duvall WA 98109

Roger Dorstad
Evergreen East Realty
16651 NE 79th Street
Redmond WA 98052

Homer Elling
21204 - 113th Ave SE
Kent WA 98031

Joseph & Darlene Galeazzi
11037 SE 212th St
Kent WA 98031

Barbara & Harlan Albee
11038 SE 213th Street
Kent WA 98031

B-Twelve Associates
Attn: Valorie Shillam
1103 W. Meeker St #C
Kent WA 98032

Sharon Berard
21202 - 110th Ave SE
Kent WA 98031

Myrna Brock
11205 SE 213th St
Kent WA 98031

Brenda & Carl Case
11357 SE 212th Ln #67
Kent WA 98031

James Crones
Crones & Associates
23806 - 190th Avenue SE
Kent WA 98041

Sharon & Burt Cutler
10825 SE 213th
Kent WA 98031

D Denry
11204 SE 212th
Kent WA 98031

William Douglas
10920 SE 212th
Kent WA 98031

Marguerite Fitts
21229 - 110th Avenue SE
Kent WA 98031

Robert Garlock
11218 SE 214th
Kent WA 98031

Frank & Rawlene Anardi
11031 SE 212th
Kent WA 98031

Todd Battnett
11028 SE 212th
Kent WA 98031

Peter & Mildred Bertellotti
11015 SE 213th St
Kent WA 98031

Warren Butler
21222 - 110th Ave SE
Kent WA 98031

Joyce Chandler
11024 SE 213th Street
Kent WA 98031

Current Resident
11024 SE 214th St
Kent WA 98031

Joyce Davis
11331 SE 209th Ln #25
Kent WA 98031

Richard & Bernice Dobrowski
10817 SE 212th Street
Kent WA 98031

Debra & Mark Elder
11224 SE 212th Street
Kent WA 98031

Mavis & Gary Gaines
10912 SE 212th
Kent WA 98031

Sylvia Goedon
11219 SE 214th
Kent WA 98031

L98P0047-Cottonwood Court

Denise & Jeffrey Heiss
11304 SE 212th St
Kent WA 98031

James & Barbara Heller
21306 - 109th Avenue SE
Kent WA 98031

Tim Hogan
11305 SE 214th St
Kent WA 98031

L98P0047-Cottonwood Court**18**

Doc & Donna Holm
11020 SE 212th
Kent WA 98031

Andrew & Kate Holmes
20103 SE 292nd St
Kent WA 98042-6862

Dale & Teresa Howell
10824 SE 212th Street
Kent WA 98031

Randy James
11030 SE 213th
Kent WA 98031

Darlene Johnson
11030 SE 214th
Kent WA 98031

Lonnie & Lorraine Johnson
11045 SE 212th
Kent WA 98031

Paul & Bernita Keefer
10832 SE 212th Street
Kent WA 98031-2156

William & Mary Kennedy
11044 SE 212th St
Kent WA 98031
Bellevue WA 98007

King County Envir Health Division
Eastgate Public Health Center
14350 SE Eastgate Way

Joseph Kovecs
11300 SE 214th
Kent WA 98031

Raymond & Mary Lee Kreman
21214 - 109th Avenue NE
Kent WA 98031

Gerry Lambie
11039 SE 213th St
Kent WA 98031

Margaret Ling
11033 SE 214th St
Kent WA 98031

Linda Matlock
WA State Dept Ecology WQSW Unit
PO Box 47696
Olympia WA 98504-7696

Cliff/Gordon/Marilyn McCauley
21222 - 109th Avenue SE
Kent WA 98031

Miller Family
11005 SE 213th St
Kent WA 98031

Ron Mine
11220 SE 212th St
Kent WA 98031

Bob & Verla Moniors
21212 - 113th Ave SE
Kent WA 98031

Eleanor Moon
King County Executive Horse Council
12230 NE 61st
Kirkland WA 98033

Judi & Jimmy Morreson
11012 SE 214th St
Kent WA 98031

New Home Trends
18912 N Creek Parkway #211
Bothell WA 98011

Elizabeth Newell
21245 - 110th Ave SE
Kent WA 98031

Nissen Family
21227 - 113th Ave SE
Kent WA 98031

Henry & Mildred Opel
11204 SE 213th Street
Kent WA 98031

Steve Palmer
11055 SE 212th St
Kent WA 98031

Betty Peterson
11055 SE 212th
Kent WA 98031

Greg & Brenda Porter
11210 SE 214th St
Kent WA 98031

Lonny & Vickie Powers
11301 SE 213th St
Kent WA 98031

Khamsiane Praseuth
21405 - 111th Ct SE
Kent WA 98031

Francis Ranzoni
21300 - 113th Ave SE
Kent WA 98031

John & Joyce Reeder
11211 SE 212th
Kent WA 98031

Iris Rhodes
21230 - 110th Ave SE
Kent WA 98031

Jams Robinson
21312 - 109th Ave SE
Kent WA 98031

Ken & Ruby Salme
11211 SE 214th
Kent WA 98031

William & Nancy Schlepp
11205 SE 212th St
Kent WA 98031

Roberta and Leonard Schuman
11012 SE 212th Street
Kent WA 98031

L98P0047-Cottonwood Court**19**

Steve Sensen
21300 - 109th Ave SE
Kent WA 98031

Noel & Marcy Serrano
11102 SE 214th St
Kent WA 98031

Scott & Lesa Severse
11212 SE 212th St
Kent WA 98031

Robert & Patricia Sewell
21221 - 110th Ave SE
Kent WA 98031

Frank & Doris Shreve
21220 - 113th Ave SE
Kent WA 98031

Kimberly Silkworth
21417 - 112th Ave SE
Kent WA 98031

Lorraine Simenson
21219 - 113th Ave SE
Kent WA 98031

Beverly & Howard Smith
21213 - 113th Ave SE
Kent WA 98031

Margaret Smith
21318 - 109th Ave SE
Kent WA 98031

Richard & Elizabeth Stewart
21313 - 109th Avenue SE
Kent WA 98031

Mark Stiefel
22312 - 113th Avenue SE
Kent WA 98031

Deborah A. Stuart
11352 SE 211th Ln #46
Kent WA 98031

Joe Stern Swerle
10830 SE 213th
Kent WA 98031

Hideo Tatoro
11016 SE 213th
Kent WA 98031

Diana Thibodeau
11054 SE 212th
Kent WA 98031

Terry & Hanife Torbet
11306 SE 214th St
Kent WA 98031

Gaspar and Patricia Vigil
11008 SE 213th Street
Kent WA 98031

Julie Went
11200 SE 212th
Kent WA 98031

Joanne & Robert Whiteley
21213 - 110th Avenue SE
Kent WA 98031

John Williams
21205 - 110th Ave SE
Kent WA 98031

Charlotte Zino
11205 SE 214th
Kent WA 98031

Larry West
DDES/LUSD
Site Development Services
MS OAK-DE-0100

Mark Bergam
DDES / LUSD
Engineering Review
MS OAK-DE-0100

Greg Borba
DDES/LUSD
MS OAK-DE-0100

Kim Claussen
DDES/LUSD
Current Planning
MS OAK-DE-0100

Fereshteh Dehkordi
DDES/LUSD
Current Planning
MS OAK-DE-0100

Nick Gillen
DDES/LUSD
Site Development Services
MS OAK-DE-0100

Kristen Langley
KC Transportation Department
Traffic and Planning Section
MS KSC-TR-0222

Aileen McManus
KCDOT
Roads Division
MS-KSC-TR-0222

Carol Rogers
DDES/LUSD
MS OAK-DE-0100

Steven C. Townsend
DDES/LUSD
Land Use Inspection
MS OAK-DE-0100